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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
The Bell Atlantic Telephone Companies	)	RM - _______
	)	
Petition for Rulemaking to Permit Volume and Term Pricing for Switched Access on a Regional Basis	)	DOCKET FILE COPY ORIGINAL

PETITION FOR RULEMAKING

Bell Atlantic[1] respectfully requests that the Commission initiate a rulemaking to permit Tier 1 local exchange companies ("LECs") to initiate volume and term pricing for switched transport services throughout their service areas when the existing expanded interconnection threshold has been reached in any one study area, subject to a "fresh look" provision. This change will afford customers in all parts of a LEC's serving area to enjoy the lower rates associated with volume and term pricing, while preserving the ability of customers to take advantage of future competitive service offerings.

In prescribing switched access expanded interconnection, the Commission permitted LECs to institute cost-justified volume and term pricing plans under certain

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[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

circumstances. Once competitors have taken either a total of 100, or an average of 25, DS1-equivalent switched transport cross-connects in the "zone 1" offices in a study area,[2] the LEC may institute volume and term pricing, but <u>only</u> in that particular study area.[3]

This limitation deprives customers in study areas which have not reached the number of competitive circuits the same volume and term savings enjoyed by their neighbors in states that have reached the requisite threshold. In many cases, customers in different states may be similarly-situated in terms of demographics and traffic density.[4] The proposed change will avoid these inequities while including provisions to eliminate any possible concern that LECs might somehow "lock up" the market before competitive thresholds are met.

This change is particularly appropriate in the case of LECs, such as Bell Atlantic, that file and justify their access

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[2] "Zone 1" offices are those having the highest traffic density.

[3] ***Expanded Interconnection with Local Telephone Company Facilities, Second Report and Order and Third Notice of Proposed Rulemaking***, 8 FCC Rcd 7374 at ¶ 118 (1993) ("Switched Collocation Order"). A study area is generally a state. ***Expanded Interconnection With Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking***, 7 FCC Rcd 7369 at n.403 (1992).

[4] For example, an access customer in a town in West Virginia may not have access to volume and term plans, simply because competitors have chosen not to collocate in central offices in West Virginia cities, while an access customer in the same size town in Pennsylvania may obtain those plans, because competitors have chosen to collocate in Philadelphia and Pittsburgh.

rates on a regional or service-area basis, rather than by (state) study area. All cost studies are performed regionally, and interstate access rates are uniform in all jurisdictions.[5] Access customers generally operate in more than one state, and they have welcomed the uniformity that regional rates afford them. Limiting switched access volume and term plans to individual states is inconsistent with this regional trend.

Moreover, the proposed change will allow LECs to implement volume and term plans for switched access services that match those that are already in effect for special access. This is particularly important, because customers perceive little operational difference between switched and special access services. They have traditionally "ratcheted" special access in order to use a portion of their special access capacity in connection with switched services. As a result, they expect to pay the same price for comparable switched and special access capacity and have available to them comparable volume and term plans. The Commission's own policies implementing local transport restructure, which brings more consistent pricing to transport services, has furthered these expectations. Bell Atlantic's proposal here will further help to meet those customer expectations.

Providing term plans for switched access will also afford customers a choice of service options not currently

[5] Price variations among the offices in the three density zones are consistent throughout Bell Atlantic's region.

available. Such plans permit customers to plan and budget their telecommunications expenses, because they know they will be immune from any rate increases during the term period.[6] Bell Atlantic's proposal will allow many customers, whether or not they have competitive alternatives, to reduce their switched access telecommunications bills. As a result, no legitimate policy is served by limiting access to the lower-priced term and volume plans to only those particular state study areas where the Commission's competitive thresholds have been met.

Accordingly, Bell Atlantic asks the Commission to initiate a rulemaking to permit LECs to implement volume and term pricing plans for switched access services throughout their serving area under the following circumstances:

1. The Commission's threshold of a total of 100 or an average of 25 DS1 equivalent circuits has been met in at least one study area in the region, and

2. The LEC has filed and justified its switched access rates on a company-wide basis, rather than a study area basis.

In addition, in order to eliminate any possible concerns that initiating volume and term pricing will "lock up" the market, Bell Atlantic proposes to include the same "fresh look" provision that the Commission prescribed in the expanded

[6] With fresh look, they have full discretion to select a competitor's lower-priced service or remain with the LEC's offering for the full term.

interconnection proceeding.[7] As soon as expanded interconnection competition is operational in a central office in a study area that has not met the Commission's threshold requirements, a customer would be afforded 180 days to terminate existing volume or term arrangements in that central office, subject to specified termination liabilities. Those termination liabilities are identical to those that the Commission prescribed in the special access expanded interconnection order.[8] Once the Commission's threshold is met in a state study area, any new competition will not trigger a fresh look period.[9]

In particular, a customer who chooses to terminate a term service before the end of the commitment period will pay no more than

> the difference between (1) the amount the customer has already paid and (2) any additional charges that the customer would have paid for service if the customer had originally taken a shorter term arrangement corresponding to the term actually used, plus

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[7] Bell Atlantic had objected to the Commission's prescribing fresh look in the collocation orders, because the Commission had not provided the notice and comment opportunity required under Section 205 of the Communications Act and the Administrative Procedures Act. By proposing fresh look in the requested rulemaking, the Commission will avoid any procedural concerns.

[8] ***Expanded Interconnection With Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking***, 7 FCC Rcd 7369 at ¶¶ 201-02 (1992); ***aff'd on recon., Second Memorandum Opinion and Order on Reconsideration***, 8 FCC Rcd 7341 at ¶¶ 9-41 (1993) ("Recon. Order").

[9] This limitation is consistent with current Commission regulations, which do not provide for fresh look rights.

interest to be calculated at the IRS rate for tax refunds, compounded daily.[10]

As the Commission has found, inclusion of this fresh look policy ensures that both the LEC and the customer are in the same position they would have been had the customer chosen the shorter term arrangement from the beginning of the term.[11] It affords a customer full discretion to decide whether or not to subscribe to a competitor's service, without the need to estimate in advance when competition will arrive in any study area.

For example, if a customer predicts that new competitive alternatives will change their purchase decisions in the next four years, that customer may still obtain the benefits of a five-year term plan. Then, if the Commission's existing thresholds are not met for five years, the customer will benefit from the lower five-year term rates. If competitive alternatives become available in three years and the customer decides to switch carriers, the fresh look formula would still give the customer the benefit of the three-year term rates from the inception of the LEC's service.

The Commission has concluded that the introduction of switched transport volume and term pricing plans will facilitate

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[10] Recon. Order at ¶ 40. To the extent that the termination liability under a LEC's tariff is lower than that which is calculated under this formula, the tariff formula will apply.

[11] ***Expanded Interconnection with Local Telephone Company Facilities, Memorandum Opinion and Order***, 9 FCC Rcd 5154 at ¶ 197 (1994).

the initial development of competitive entry.[12] It has found that, if volume and term discounts are cost-justified and "not otherwise unlawful, the LECs should -- ***indeed must*** -- be allowed to offer them in order to encourage efficiency and full competition.[13] Bell Atlantic's proposal to permit LECs the flexibility to offer switched transport volume and term pricing on a system-wide basis is consistent with this goal of facilitating competition. Failure to permit such flexibility will, in the Commission's own words, "deprive customers of the benefits of competition and give new entrants false economic signals.[14] Inclusion of the fresh look provision ensures that customers are not inhibited by contractual arrangements of availing themselves of competitive offerings once the Commission's competitive threshold is reached.

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[12] ***Id***. at ¶ 183.

[13] Switched Collocation Order at ¶ 115 (emphasis added).

[14] ***Expanded Interconnection with Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking***, 7 FCC Rcd 7369 at ¶ 172 (1992).

Accordingly, the Commission is requested to initiate a rulemaking to permit LECs to offer volume and term pricing arrangements for switched transport on a system-wide basis, under the conditions enumerated above.

Respectfully submitted,

The Bell Atlantic Telephone Companies

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February 10, 1995